

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS



STATEMENT OF

STATEMENT OF JAMES B. JOHNSON
16TH DISTRICT VICE PRESIDENT

BEFORE THE
SUBCOMMITTEE ON WORKFORCE PROTECTIONS
OF THE
HOUSE COMMITTEE ON
EDUCATION AND THE WORKFORCE

ON

H.R. 697

FEDERAL FIRE FIGHTERS FAIRNESS ACT

MAY 26, 2005

causes of death and disability for fire fighters, and numerous studies have found that these illnesses are occupational hazards of fire fighting.

Under the Federal Employees Compensation Act (FECA), compensation and/or retirement benefits are not provided to federal employees who suffer from occupational illnesses unless they can specify the conditions of employment to which the disease is attributed. In order to qualify for these benefits under current law, federal fire fighters must be able to pinpoint the precise incident or exposure that caused a disease in order for it to be determined job-related.

As I will explain further in my testimony, this burden of proof is extraordinarily difficult for fire fighters to meet because they respond to a wide variety of emergency calls, constantly working in different environments under varied conditions.

As a result, very few cases of occupational disease contracted by fire fighters have been deemed to be service connected.

State Laws

In recognition of the linkage between firefighting and certain diseases, 40 states have enacted some sort of "presumptive disability" laws, which presume that cardiovascular diseases, certain cancers and infectious diseases are job-related for purposes of workers compensation and disability retirement unless it can be shown otherwise.

For example, Mr. Chairman, in your home state of Georgia fire fighters are protected by a presumptive disability law that covers heart disease, lung disease, and certain infectious diseases.

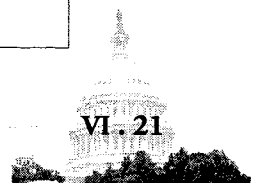
Many of the illnesses covered by state presumptive disability laws are debilitating and often fatal. They place a great strain on the fire fighter and his/her family. Knowing that they will not have to fight their state Worker's Compensation offices during trying times for them and their families provides a degree of security for those who place themselves in harm's way to protect the rest of us.

While presumptive laws are now the norm for municipal fire fighters, no such protection exists for fire fighters employed by the federal government.

Fairness

HR 697 was named the Federal Fire Fighters Fairness Act because the main impetus for the legislation is to treat federal fire fighters fairly. It is simply not right that federal fire fighters are denied an important workplace protection that is routinely provided in the municipal sector. This inequity is especially egregious in communities where federal fire departments maintain a mutual aid agreement with a neighboring municipality.

In such instances, federal fire fighters work side-by-side with municipal fire fighters



ever been granted for a heart attack. He never filed a claim and accepted the retirement benefits provided to people who retire for non-work related reasons.

Unable to work and with no protection under FECA, Fire Fighter Tukes had to rely on his fellow fire fighters to donate leave to him so he could retire with a full pension. He was lucky to be near retirement age; most are not when they are stricken with these occupational illnesses.

Occasionally an instance occurs in which the service connection is so apparent that OWCP has little choice but to award benefits. But the absence of a presumptive disability law means that in even these cases the fire fighter must spend years fighting the bureaucracy to get what they are rightfully entitled to.

Fire Fighter Rick LeClair provides a tragic example of this delay. LeClair spent his career protecting the critical naval facility in San Diego, California until he was diagnosed with lung cancer. Doctors discovered that his cancer was caused by mesothelioma, which was attributed to the asbestos suits that fire fighters once wore. Fire Fighter Leclair filed a claim with the Office of Worker's Compensation. Before the claim was decided fire fighter LeClair succumbed to the cancer that was ruled to be caused by an occupational hazard. If this law would have been in place for fire fighter Leclair, his illness would have been presumed and he would have received the benefit he died waiting years to receive.

It is for fire fighters Tukes, LeClair, and many others whose names we don't know, that we urge passage of the Federal Fire Fighters Fairness Act.

Firefighter Health and Safety

The IAFF has been actively involved in the health and safety of fire fighters for more than seventy years. Each year the IAFF conducts an annual death and injury survey with the cooperation and participation of various fire department administrators. This survey has shown that fire fighting is the most hazardous occupation in the United States. During the latest ten-year period (1990-2000), the Death and Injury Survey has found that professional fire fighters experienced 342 traumatic-injury deaths, 502 occupational disease deaths, 343,861 injuries and 6,632 forced retirements due to occupationally induced diseases or injuries.

Occupational diseases such as heart disease and cancer constitute a majority of all reported fire fighter deaths.

Heart Disease

The very nature of firefighting places extraordinary strain on cardiovascular systems. Fire fighters are constantly making transitions from the calm, peaceful environment of the firehouse to the hostility presented by fire. Within 15-30 seconds after the fire alarm sounds, research studies have found that a fire fighter's heart rate can increase by as much

and chemicals encountered in fire fighting:

- Leukemia is caused by benzene and 1,3-butadiene.
- Lymphoma and multiple myeloma are caused by benzene and 1,3-butadiene.
- Skin cancer is caused by soot containing PAH.
- Genitourinary tract cancer is caused by gasoline and PAH.
- Gastrointestinal cancer is caused by PCBs and dioxins.
- Angiosarcoma of the liver and brain cancer are caused by vinyl chloride.

Leukemia, lymphoma, multiple myeloma, cancer of genitourinary tract, prostate cancer, gastrointestinal cancer, brain cancer and malignant melanoma are among the cancers that have been observed consistently with increased frequency in epidemiologic studies of fire fighters. It is likely that additional associations will be identified between chemicals encountered in the fire environment and cancer in fire fighters. Nevertheless, the available data are sufficient to conclude that excess risk of cancer is a distinct hazard of fire fighting.

Lung Disease

In the course of their work, fire fighters are exposed to numerous substances that irritate the respiratory tract - ammonia, chlorine, formaldehyde, hydrogen sulfide and hydrogen chloride to name just a few. Toxic substances can cause acute (immediate) effects, chronic effects noted months or years afterwards, or both. The acute effects of inhaling smoke are familiar to every fire fighter. Some of these agents may not cause immediate irritation, but instead, cause damage that doesn't become apparent until years later when it may be difficult to prove cause and effect.

Infectious Diseases

Infectious diseases have become a hazard to fire fighters too big to ignore. Fire fighters and emergency medical responders can be exposed during motor vehicle accidents in which blood and sharp surfaces often are present, by rescuing burn victims, and through the administration of emergency care. The victim may require extrication from a difficult-to-access accident scene, such as a motor vehicle accident or poorly accessible building. There may be broken glass or other sharp objects at the scene that are poorly visualized, and the lighting at the scene may be minimal. In addition, if the victim is exsanguinating and needs to be extricated quickly to save his life, the emergency provider may act in haste, with disregard for his or her own safety. Fire fighters are also involved in emergency medical treatment at the scene, including intravenous line insertion and blood drawing. The fire fighter almost never knows the infectious disease status of the victim while he or she is rendering emergency services. All of these factors combine to place the fire fighter at increased risk of contracting a blood borne contagious disease through a puncture wound, skin abrasion or laceration that becomes contaminated with infected blood from the victim.

attack or stroke suffered within twenty-four hours of responding to an emergency call or participating in a training exercise involving "unusual physical exertion." It is now presumed that the death was "a direct and proximate result" of the emergency response.

Cost

While we believe that the merits of the Federal Fire Fighters Fairness Act warrant congressional action, we are mindful that in this tight budget environment we must be sensitive to the cost of even the most compelling initiatives. Although no formal cost estimate has been done by the Congressional Budget Office, we believe the cost of implementing H.R. 697 will be minimal.

The number of federal fire fighters is relatively small compared with other occupations in the federal sector, and the vast majority do not retire due to an illness. Based on the experience of states with similar presumptive disability laws, as few as 15-20 people are likely to qualify for the benefit each year.

Moreover, because fire fighters are generally on the lower end of the GS pay scale, benefits based on their salary would not have a significant impact on FECA's balance sheet.

In short, an important protection can be provided to the nation's federal fire fighters at little expense to the federal treasury.

In conclusion, Mr. Chairman, I would like to thank you and the Committee for holding this hearing today. I look forward to working with the committee to see this legislation move forward.

State Presumptive Disability Laws

The following states have presumptive disability laws which recognize that fire fighters are at increased risk for certain illnesses. The laws create a presumption that the specified diseases are job related. Because the laws vary greatly from state to state, readers should use the links to review the specific state laws to determine the law's application.

State	Heart Disease	Lung Disease	Cancer	Infectious Diseases
Alabama	x	x	x	x*
Alaska	x	x	x	x*
Arizona			x*	x*
Arkansas				
California	x		x	x
Colorado	x	x		x
Connecticut	x			
Delaware				
District of Columbia				
Florida	x	x*		x*
Georgia	x	x		
Hawaii	x	x		
Idaho	x	x		
Illinois	x	x	x	x*
Indiana **				
Iowa	x	x		
Kansas	x	x	x	
Kentucky	x	x		
Louisiana	x	x	x*	
Maine	x	x		x
Maryland	x	x	x*	
Massachusetts	x	x	x	
Michigan	x	x		
Minnesota	x	x	x	x
Mississippi				
Missouri	x	x		
Montana				
Nebraska			x	
Nevada	x	x	x	x*

State	Heart Disease	Lung Disease	Cancer	Infectious Diseases
New Hampshire	x	x		
New Jersey		x		
New Mexico				
New York			x*	
North Carolina				
North Dakota	x	x	x	x*
Ohio	x	x		
Oklahoma	x	x	x	x*
Oregon	x	x		
Pennsylvania	x	x		x*
Rhode Island		x	x	x
South Carolina	x	x		
South Dakota	x	x	x	
Tennessee ***	x	x	x	
Texas	x	x	x	x*
Utah	x	x		x*
Vermont	x*			
Virginia	x	x	x*	x*
Washington	x	x	x	x
West Virginia				
Wisconsin	x	x	x*	
Wyoming				

* Only certain diseases in these categories are covered

** Legislation pending at press time

*** Only certain localities within the state



Gary S. Coons

I was a firefighter for 15 years before being medically pensioned with a line of duty injury. In 2005, my wife started to notice changes in my physical activities during the time I was going through a series of surgeries to repair a shoulder and back damage related to my line-of-duty injuries. My wife stated that she first noticed symptoms related to an overall slowness in my demeanor, leg tremors while at rest, blank stares, and stooped over walking. At the same time I was aware of an increased stiffness, increased pain in my shoulder and lower extremities, smaller hand writing, and soft speaking. We both related these symptoms to my injuries and sought medical help from multiple physicians over two year period. The doctors offered therapies to mitigate the symptoms and did not relate these complications to a more complex neurological disease. Less than two years later the symptoms were getting worse and my right arm and hand started to tremor, I was stuttering, and my head would jerk around. We then decided to seek out a neurologist, after another round of therapies of treating symptoms. Several test and medication trials over 6 months resulted in a diagnosis of Parkinson's disease at the age of 36. The Neurologist believes that I technically developed Parkinson's disease at the age of 33, due to onset of symptoms mentioned above.



The average age of onset of Parkinson's disease is the late fifties. At 36 (neurologists believe my onset of Parkinson's disease to be at the age of 33), I soon came to realize that I had developed Parkinson's disease over 20 years earlier than is normal. The chances of anyone having early onset Parkinson's Disease at this age are less than 1 in 100,000, making it a rare medical disorder, and therefore more likely to be the result of "unusual circumstances." A toxic exposure is one of the "unusual circumstances" that can trigger Parkinson's disease. So, after a review of my fire department work history I found an event which provides strong correlations between the onset of my Parkinson's and a probable significant toxic exposure.

In 2005, I was the lead investigator of a large paint warehouse fire. The contents of the fire building included several paint trucks (vehicles), painting materials, and paint chemicals, like Toluene & Carbon Monoxide. I was exposed to many toxins during the 3 day investigation with little to no respiratory protective equipment (the scene was deemed "All Clear for SCBA (Self Contained Breathing Apparatus) by the incident commander. I was not provided any other type of respiratory protective equipment and the protective gear worn provided limited protection against skin exposure. It was within a short time frame, my wife and I started noticing the symptoms listed above. Parkinson's disease normally develops very slowly. Research has shown, however, toxicity is the probable cause when the Parkinson's symptoms develop rapidly after a probable chemical exposure.

Arizona Mayor Leads Fight for "Presumptive Cancer" Bill

By David Reuter, Public Information Officer, Surprise, Arizona
May 13, 2002

It was 1990 when Joan Shafer won her first bid for political office - pulling in a landslide vote to become Surprise, Arizona's first councilwoman. But it was a bittersweet victory. Four months before she took office, Shafer's long time husband, **Richard, a 21-year veteran of the Phoenix Fire Department**, lost his fight with - what doctors believed to be **job-induced - lung cancer**. "I knew what was coming," Shafer said softly, "when I saw him cough up black phlegm for days after fighting a bad fire."

What she didn't expect is that **medical claims for the 60-year-old retired fire captain and arson investigator would be repeatedly denied by Worker's Compensation**. So for more than a decade, Shafer has taken her personal battle public: Brandishing her political clout on behalf of firefighters statewide. "I didn't want some other firefighter's family going through what I went through," said the outspoken Shafer, now a third-term mayor of one of Arizona's fastest growing cities.

Support for Bill Sought

In 1992, armed with doctors' reports she paid for herself, Shafer broached the Legislature with a proposal to amend Worker's Compensation laws to recognize cancer as an occupational disease of firefighters, opening the door for firefighters to receive compensation for job-related cancer, and/or surviving family members to obtain death benefits. Legislators nixed it, requiring instead that cities provide firefighters with cancer insurance. "The insurance didn't satisfy me," she said. "It didn't address disability or death." Several subsequent attempts died, as well, but Shafer didn't give up.

In 1999, she found sponsorship - and support - for a bill rising from 66 percent to 80 percent, the benefits paid to the surviving spouses of Public Safety Personnel.

And, finally, in 2001, the State Legislature voted unanimously to support the Shafer-proposed **"presumptive cancer" bill amending Worker's Compensation statutes to include any disease, infirmity, condition or impairment of a firefighter's health that is caused by cancer and results in total or partial disability or death, is presumed to be an occupational disease**. Furthermore, it spelled out specific cancers encountered by firefighters: brain, bladder, rectal, colon, lymphoma, leukemia, Aden carcinoma or mesothelioma, and extended benefits to retired firefighters up to age 65.

"It's of enormous consequence, and Joan's actions in this were pivotal," said Chris Medrea, a long-time firefighter and president of the Professional Firefighters of Arizona. "We could not have succeeded without her. Joan Shafer made the difference."

Dave Gore, lobbyist for the Professional Firefighters of Arizona, agreed. "This legislation was needed for a very, very long time and Joan Shafer was the driving force behind it."

Governor Signs Bill

On May 31, 2001, Shafer drove to the downtown Capitol Building — past a boarded up building where her husband once fought a dangerous fire - to watch first-hand as Arizona Gov. Jane D. Hull signed the bill into law, making Arizona the 18th state to provide such benefits for firefighters.

"I made Richard a promise that I would live to see the day when firefighters would have this," said the 72-year-old mayor, her eyes resting on the picture and mementos of Richard carefully arranged on the credenza in her City Hall office. "I call it a protective blanket over them.

But Shafer isn't finished fighting.

There have been about 50 Phoenix firefighters who have developed cancer in the past 10 to 12 years, she said, and some of those cancers aren't included in the bill. They are the reason Shafer plans to ask Arizona's legislators to strengthen the law. And, she wants to see to it that members of her "firefighter family" nationwide are protected as well. "I want to see to it that every state covers their firefighters," she said. Thirty-eight states currently offer heart and lung presumption laws for firefighters, while 20 states recognize cancer presumption, and eight recognize certain infectious diseases as directly related to firefighting and emergency medical activities.

"We've all heard that second-hand smoke kills," said Shafer, whose city just recently outlawed smoking in public places. "Other mayors need to realize that we are sending our firefighters out into second hand smoke everyday and it's our responsibility to see that they are covered by state industrial if they contract cancer — just as if they had broken their leg in the line of duty."

Protective gear isn't enough, she said, heading off the argument she hears most.

Despite the apparatus worn by firefighters, toxicants can still be absorbed through the skin and, when moving around in a burning building with zero visibility, masks can get knocked off, thus leaving the firefighters unprotected from the fumes. "How can we sleep nights if we don't take care of our employees?" Shafer asks.

Advice for Mayors

Shafer has the following suggestions for mayors who want to get involved:

1. Contact state representatives and let them know you support a federal law that would provide thousands of federal employees in fire service activities with protections that are similar to those that cover municipal firefighters in many states.
2. Gather plenty of facts on how smoke inhalation can affect firefighters, contact your local firefighters union for support, then present your case to state legislators.
3. Consider passing a City Council resolution in support of benefits for firefighters.

Every year Shafer attends a memorial service for firefighters who have died in the line of duty. As part of the service, a bell is rung then the name of a deceased firefighter is read. "There's one name I know will never be read and I know what killed him. I have the proof," she said.

"Richard will never be recognized as having died in the line of duty and I'll never get the amount that goes along with that, but I want to see to it that someone else will, and I want to see to it that every firefighter who dies as a result of job-induced cancer has a ring of the bell."

http://www.usmayors.org/usmayornewspaper/documents/05_13_02/AZ_mayor.asp

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BUDGET AND PROGRAM PLANNING**Fiscal Note 2011 Biennium**

Bill #	HB0408	Title:	Presumption of covered diseases for safety officers under work comp
Primary Sponsor:	Pomnichowski, JP	Status:	As Introduced

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	-----	-----	Cannot Be Determined	-----
Revenue:				
General Fund	-----	-----	Cannot Be Determined	-----
Net Impact-General Fund Balance:	-----	-----	Cannot Be Determined	-----

Description of fiscal impact: The fiscal impact of this legislation cannot be determined. Within the context of Montana's overall Workers' Compensation system, the fiscal impact of this legislation could be significant. However, the rates for the individual classification codes for firefighters, volunteer firefighters, emergency medical technicians (EMT), and peace officers will likely have significant increases within 3-5 years and continue to increase thereafter.

FISCAL ANALYSIS**Assumptions:**

- The presumptive diseases to be covered by this bill are heart disease, lung disease, bladder cancer, brain cancer, breast cancer, cancer of the blood or lymphatic systems, leukemia, non-Hodgkin's lymphoma, multiple myeloma, malignant melanoma, cervical cancer, colorectal cancer, cancer of the digestive system, kidney cancer, liver cancer, lung cancer, ovarian cancer, prostate cancer, skin cancer, testicular cancer, ureter cancer, tuberculosis, hepatitis A, B, C, or D, human immunodeficiency virus, diphtheria, hemorrhagic fever, meningococcal disease, and rabies.
- The diseases noted are covered under the Workers' Compensation system currently if there is medical evidence that the disease is work related. Currently, if the injured employee files a claim, their general practitioner will make a diagnosis and provide the medical evaluation to the insurer. The insurer will do an

independent medical evaluation and research medical evidence of the causality of work. Based on findings, the claim may be accepted or denied as provided in Workers' Compensation laws. The Workers Compensation Court decides all contested claims.

3. The presumptive diseases cited in the bill are broad categories for many types of more specific diseases that may be common, rare, curable, or non-curable. For example, 'heart disease' encompasses; coronary heart disease (most common type of heart disease), heart attack, high blood pressure, Ischemic heart disease, heart rhythm disorders, tachycardia, heart murmurs, rheumatic heart disease, pulmonary heart disease, and hypertensive heart disease (list not all inclusive).
4. As Workers' Compensation claims, these presumptive diseases will be covered from the first dollar of expense (no deductible) and will have no lifetime limits on coverage. Lost wages and fatality benefits to beneficiaries are likely expenses of these claims.
5. Workers compensation claims for a presumptive disease may be filed up to five years after the last day of employment as a firefighter, volunteer firefighter, EMT, or peace officer.
6. Though the specific fiscal impact of Workers' Compensation claims resulting from these presumptive diseases cannot be determined it is known that cost of treatment for the diseases cited is significant.
7. State agencies employing peace officers, firefighters, volunteer firefighters, and EMT's, and providing for their Workers' Compensation insurance coverage, will incur increased premium payments. There will not be an immediate increase in premiums but premium increases will occur over time as claims are filed and losses develop.
8. For informational purposes, the National Council on Compensation Insurance (NCCI) completed an analysis of similar legislation in Oregon. The Oregon bill was 'Presumption of Compensability for Cancer for Certain Non-volunteer Firefighters'. The Oregon legislation addressed a narrower population of employees and a different but limited scope of presumptive disease. NCCI's findings estimated a 2% to 7% increase in workers' compensation cost for employers of firefighters due to the increase in compensable cancer-related claims for non-volunteer firefighters. NCCI estimated Oregon's workers compensation system cost would be negligible as the non-volunteer firefighter class code represents a very small portion of Oregon's total system benefits. The increased cost would be focused on the employers of the non-volunteer firefighters.

Effect on County or Other Local Revenues or Expenditures:

1. Local governments employing peace officers, firefighters, volunteer firefighters, and EMT's, and providing for their workers' compensation insurance coverage, will incur increased premium payments in future years.

Long-Term Impacts:

1. The state and other funds supporting the workers' compensation premiums of firefighters, volunteer firefighters, EMT's, and peace officers will see increased premiums in future years though the amount of the increase cannot be determined.

Sponsor's Initials

Date

Budget Director's Initials

Date